

**Village of Indian Head Park
201 Acacia Drive
Indian Head Park, IL 60525**

**MINUTES
VILLAGE OF INDIAN HEAD PARK
PLANNING AND ZONING COMMISSION
CONTINUATION OF A PUBLIC HEARING
ZONING PETITION #172**

“Pursuant to 5 ILCS 120/2.06 (3) minutes of public meetings shall include, but need not be limited to: a general description of all matters proposed, discussed, or decided, and a record of votes taken.”

Tuesday, June 2, 2009

7:30 P.M.

I. CALL TO ORDER - CHAIRMAN DENNIS SCHERMERHORN

A continuation of a public hearing was hosted by the Village of Indian Head Park Planning and Zoning Commission on Tuesday, June 2, 2009, at the Municipal Facility, 201 Acacia Drive to consider Petition #172 regarding a request from Mr. & Mrs. Jim Nix for an amendment to the Ashbrook Development P.U.D. to allow for an in-ground swimming pool at 11145 Ashbrook Lane. The meeting was convened and called to order at 7:30 p.m. by Chairman Dennis Schermerhorn. Kathy Leach, Zoning Commission Secretary, called the roll as follows:

II. ROLL CALL: PRESENT (AND CONSTITUTING A QUORUM):

Chairman Dennis Schermerhorn
Commissioner Diane Andrews
Commissioner Noreen Costelloe
Commissioner Denise Ingram
Commissioner Mike Lopez
Commissioner Earl O'Malley

ALSO PRESENT:

Debbie Anselmo, Zoning Trustee
Trustee Carol Coleman, Zoning Trustee

NOT PRESENT:

Commissioner Jack Yelnick

III. PLEDGE OF ALLEGIANCE TO THE FLAG

Chairman Schermerhorn and the Planning and Zoning Commission members led the audience in reciting the Pledge of Allegiance to the Flag as follows: ***"I Pledge Allegiance to the Flag of the United States of America and to the republic for which it stands, one nation under God indivisible with liberty and justice for all"***.

QUESTIONS AND/OR COMMENTS FROM INDIAN HEAD PARK RESIDENTS/PROPERTY OWNERS IN ATTENDANCE REGARDING ZONING AGENDA ITEMS

None

IV. CONTINUATION OF A PUBLIC HEARING HELD BEFORE THE VILLAGE OF INDIAN HEAD PARK PLANNING AND ZONING COMMISSION (PUBLIC COMMENTS RECEIVED AFTER DISCUSSIONS BY THE PLANNING AND ZONING COMMISSION MEMBERS AND PRIOR TO VOTES)

ZONING AGENDA ITEMS:

- 1. Petition #172 – A zoning petition to consider an amendment and variation to the Ashbrook Development Planned Unit Development for a special use to allow for the construction of an in-ground swimming pool with safety fence and landscape enhancements in the rear yard of the property at 11145 Ashbrook Lane.**

Chairman Schermerhorn convened a continuation of a public hearing regarding Petition #172 pursuant to a request for an amendment to the Ashbrook Development P.U.D. with regard to an in-ground swimming pool at 11145 Ashbrook Lane. He noted that a great deal of commentary was received by the Commission in opposition of this zoning matter as well as those that were in favor of the proposed zoning amendment at previous meetings. Chairman Schermerhorn noted that the Commission previously reached a conclusion at the prior hearing and voted to provide a recommendation to the Village Board to grant the zoning relief requested.

Chairman Dennis Schermerhorn stated at the conclusion of the April public hearing regarding Petition #172, the following report from the Planning and Zoning Commission was presented to the Village Board: (1) the Commission was presented with a petition to amend the Planned Unit Development to allow for the construction of an in-ground pool and safety fence at 11145 Ashbrook Lane;

(2) the petition was presented by Mr. & Mrs. Jim Nix with the inclusion of commentary from their contractor, Barrington Pools who submitted the petition; (3) the swimming pool would occupy a large portion of the rear yard; (4) alternate design plans were presented. One plan reflected a retaining wall as part of the pool project, a plan was also presented without a retaining wall and a grading/landscape plan was provided; (5) the property has a retention pond along the rear yard boundary as well as twenty-two (22) townhome unit property owners that surround the retention pond; (6) after considerable discussion regarding the proposed retaining wall, the property owner withdrew the retaining wall from the project due to a rear yard variation that would be needed to allow for the structure; (7) a number of townhome units owners were opposed to the petition as well as comments from residents that supported the request for an amendment to the Ashbrook Planned Unit Development; (8) the Ashbrook Estate Homes Single Family Association provided a letter supporting the petition and approved the request; (9) the Ashbrook Townhome Association opposed the proposal; (10) objections noted in the public hearing from townhome owners were to pond pollution from the swimming pool, the potential for additional noise from pool parties and the fact that there are no swimming pools presently in Ashbrook; (11) lengthy discussion ensued among the Commission members at the public hearing as well as members of the audience who provided comments; (12) there were several significant findings that were noted for the record concerning draining of the pond to avoid pond contamination issues; (13) the underlying Planned Unit documentation clearly anticipated the inclusion of swimming pools in the Ashbrook Development Subdivision as referenced in the Declaration of Easements, Covenants and Restrictions for the single family home section of Ashbrook; (14) color photographs of the swimming pool plans were provided by Barrington Pools to the Commission as well as the audience for review; (15) after review of the Findings of Fact, and discussion among the commissioners, the commission members voted its recommendation to the Village Board to accept the petition as presented with the following conditions: if the pool needed to be drained, it would only be drained into the sanitary sewer system, screening of the safety fence and swimming pool would be installed according to the Village ordinance requirements and the retaining wall option was withdrawn from the plan. The vote to grant an amendment to the Ashbrook Development for the in-ground pool was seven members in favor, none opposed and no members were absent.

Chairman Schermerhorn stated that a recommendation from the Commission was presented at the last Village Board meeting. He noted that at the Village Board meeting, the Board members voted to remand this zoning matter back to the Planning and Zoning Commission for further consideration. Chairman Schermerhorn pointed out that there was considerable discussion at the Board meeting concerning whether or not the pool could be constructed without a retaining wall as well as the height of the screening to be provided based on the design of the pool and safety fence. He noted that the total overall size of the pool area was also discussed and how much space in the rear yard would be occupied by the pool, safety fence and landscaping areas.

Chairman Schermerhorn stated that a memorandum dated June 1, 2009 to the Village's plan review consultant was also received from Steve Hopkins of Barrington Pools on behalf of Jim and Gwen Nix of 11145 Ashbrook Lane. The memorandum in part outlines the following items regarding the proposed swimming pool at 11145 Ashbrook Lane:

(1) the pool project has been modified to reduce the overall size (footprint); (2) the spa and infinity edge has been eliminated. Three-feet (3') of added green space to the west of the property line was added to facilitate drainage and give consideration for future growth of pine/arbor vitae; (3) the swimming pool when drained for winterization or service will be neutralized of all pool chemicals and drained into the sanitary sewer system; (3) Jason Doland Engineering will revise the engineering plan with the new pool/deck design and the plans will be resubmitted for review by the Village. The pool fence will be located on the pool deck area; (4) Tim Borth will revise the landscaping plan indicating sizing of pines/arbor vitae with heights of five-feet to eight feet six inches; (5) Barrington Pools will revise the site plan with the new design to indicate locations and specifics of natural gas and electric lines; (6) new plans will be submitted showing the location and details of the proposed safety fence including specifications on the distance and spacing between vertical balusters, not to exceed four inches; (7) the letter of intent drafted by Barrington Pools will serve as notice to all involved that Jim Nix and Barrington Pools will address all outstanding issues.

Jim Stortzum, stated that he is the attorney representing the Ashbrook Townhome Association. He further stated that if the meeting this evening is a public hearing process, the memorandum should not be read into the record but sworn testimony and evidence should be made part of the record. Mr. Stortzum stated that for the record he objects to the reading of a memorandum that lacks the submittal of a formal plan. He noted at the Village Board meeting plans were requested to be submitted showing all details of the proposed project. Mr. Stortzum stated that if plans were not submitted to be reviewed the matter should be continued to the next meeting to allow everyone an opportunity to review the details of the project and to comment on the proposed plans.

Chairman Schermerhorn stated that Mr. Stortzum's comments are duly noted and the Commission members will continue to discuss the items that have been presented to the Commission this evening with regard to this zoning matter. Mr. Stortzum asked if the memorandum will be offered into as evidence as an exhibit to be made part of the public hearing process to allow everyone an opportunity to review the materials. Chairman Schermerhorn pointed out that the memorandum from Barrington Pools was read into the record of the meeting this evening as presented to the Commission in connection with this zoning matter and a copy can also be made available to Mr. Stortzum.

Chairman Schermerhorn noted for the record that the Commission previously provided a recommendation to the Village Board based on testimony and evidence presented concerning Petition #172 for an in-ground swimming pool at 11145 Ashbrook Lane. He noted that the Commission is continuing this zoning matter to review new aspects of the project or revisions to the previously presented plans. Steve Hopkins, of Barrington Pools, stated that he has a revised site plan to share with the Commission this evening for their consideration.

Mr. Stortzum asked if any witnesses are being sworn in to provide testimony on this zoning matter. He suggested that the matter be continued to the next meeting if all information has not been submitted to the Commission so that all interested parties can participate in the hearing process. Mr. Stortzum stated that he retained a professional land planner to review the plans for the project and there are no plans to be reviewed at this time.

Chairman Schermerhorn stated Barrington Pools presented a revised site plan to the Commission this evening. Steve Hopkins, of Barrington Pools, stated that based on a meeting with Village representatives and comments provided at that meeting, suggestions were made to redesign the plans to incorporate further details regarding the project as well as addressing any outstanding issues. He noted that the June 1, 2009 letter to the Village sets forth items discussed previously to be addressed by Barrington Pools relative to this project.

Steve Hopkins stated that additional time is needed to prepare a final site, grading, landscaping and drainage plan once all of the issues have been addressed. Chairman Schermerhorn asked Mr. Hopkins if the final plans to be prepared will comport with the memorandum items noted in the June 1, 2009 letter from Barrington Pools to the Village as well as the recommendation previously from the April zoning hearing. He noted that the recommendation from the Planning and Zoning Commission included no retaining wall and the landscaping would be installed according to Village requirements. Mr. Stortzum stated that he objects to the procedures of the public hearing this evening and that evidence needs to be presented by the petitioner to the Commission for consideration. Chairman Schermerhorn stated that an opportunity to comment will be accepted by the Commission after the Commission members receive and discuss the information presented. Mr. Stortzum stated that he was present at the Board meeting when the Mayor and Board of Trustees asked the petitioner and his representatives to provide specific information regarding site plans and engineering items relative to this zoning matter. He noted that no new documents have been received or reviewed.

Chairman Schermerhorn stated that revised plans were not received from Barrington Pools in time for a review and report to be provided prior to the meeting this evening. He noted that in order for there to be a proper evaluation of the plans by the Commission and to receive input from the audience as part of the hearing process, plans need to be submitted to allow everyone an opportunity to prepare for the meeting.

Chairman Schermerhorn asked Steve Hopkins, of Barrington Pools, if all conditions previously stated with regard to the proposed pool design plans would be incorporated in the final plans. Mr. Hopkins stated that all conditions will be met including previous recommendations that were made by the Commission. Chairman Schermerhorn asked Mr. Hopkins if there is still an open issue regarding the proposed retaining wall. Mr. Hopkins stated that a retaining wall is not needed.

Chairman Schermerhorn asked the Commission members if they recalled any open issues relative to this project that was discussed before the Village Board.

Commissioner Andrews stated that there was a mention that possibly the pool could be designed on a smaller scale to minimize the pool coverage area due to the area that is needed to complete the grading and landscaping requirements and to allow for future growth of the pines/arbor vitae. Jim Stortzum stated that there were also discussions concerning elevations of the property from front to back, how the pool would be constructed with the existing elevations, how the engineering might work and the size of the landscaping to be planted to provide adequate screening.

Commissioner Andrews stated that when the Commission members voted on a recommendation to be made to the Village Board, a retaining wall was not part of the plan. Commissioner Andrews further stated that the current plans do not accurately reflect the items discussed and voted upon at the previous public hearing on this zoning matter.

Chairman Schermerhorn stated that the Planning/Zoning Commission conducted a public hearing previously, public input and commentary was received by the Commission and the Commission reached a conclusion to make a recommendation to the Village Board. He noted that apparently there are several design plans that have been presented that have not been considered by the Commission. Chairman Schermerhorn stated that there have been several recommendations along the way with each plan that has been presented, it was determined previously that the retaining wall was not part of the plan and the entire concept plan should be detailed in the final plans for the project.

Mr. Stortzum stated that the Village Board at the last meeting voted to remand this zoning matter back to the Planning and Zoning Commission for further findings and consideration in the form of a continuation of the public hearing. Chairman Schermerhorn stated that he is interested in receiving input from the Commission members. He noted that commentary will also be received from the audience when the Commission has finished discussing this zoning matter. Mr. Stortzum stated that there is no point in continuing the discussion this evening since there are no plans or details to be reviewed by the Commission. Steve Landt, stated that he is a land planner, representing the Ashbrook Townhome Association. He further stated that he was previously retained by the Village of Indian Head Park through its attorney relative to a zoning issue and a fence matter for a special needs child in the Village. Mr. Landt stated that the Village published to amend the Ashbrook Development Planned Unit Development. He noted that an amendment to a Planned Unit Development is no different than establishing a Planned Unit Development which has a site plan, engineering plan and full landscape plans that become a condition and part of the planned development. Mr. Landt stated that the review of plans would also allow the neighbors an opportunity to provide input, no final plans have been submitted and a recommendation to amend a planned unit development cannot be provided without a set of plans that become a condition of an amendment to a planned unit development.

Chairman Schermerhorn stated that he as well as the Commission members concur that plans are needed in order to provide a recommendation to amend a planned unit development. Trustee Carol Coleman stated that the Commission members are doing their job and public comments will be received when it reaches that point of the meeting in the proper order. Chairman Schermerhorn pointed out that the Commission's job is to make sure that everyone has a fair hearing process and input will first be received from the Commission members followed by public comments from the audience.

Commissioner Andrews asked if a full set of plans could be provided that reflect the overall size of the pool including measurements on all sides, the layout and placement of the safety fence and landscaping to be installed. Commissioner Andrews stated that there have been many changes along the way with the project and all of the details could have been resolved at the Planning/Zoning Commission meeting instead of plan revisions being presented to the Village Board. Commissioner Andrews further stated that there are several adjacent homeowners living in close proximity within the Ashbrook Planned Unit Development and this is the first swimming pool that is proposed within the Ashbrook Development which has very small lots. She noted that if a percentage of a backyard is given to allow a swimming pool in a planned unit development right up to the lot line it could create a problem for adjacent property owners. Commissioner Andrews stated that the townhome section is close to the pond and there may also be drainage problems with a pool if it drains into the pond area.

Commissioner Andrews stated that the LaGrange Highlands Sanitary District serves the Ashbrook Development and as a Village the Commission must look at the entire plan including the size of the pool. Commissioner Lopez pointed out that the Commission reviewed and discussed the ability to have a pool in Ashbrook Subdivision at the last meeting and it was noted that swimming pools were taken into consideration in the single family development covenants for Ashbrook. Commissioner Andrews stated that the Village's zoning code states that certain uses may create unique problems with respect to impact on neighboring properties. Commissioner Lopez stated that the Commission members discussed the point at the last meeting that swimming pools were listed as a permitted use in the single family covenants. Commissioner Andrews stated that although the Ashbrook covenants may list swimming pools, the Village's zoning code also needs to be reviewed if it creates a unique problem within the development for neighboring properties.

Commissioner Lopez stated that the Commission members also discussed the point previously that if the pool needed to be drained it would be drained into the sanitary sewer and it was a condition in the recommendation to the Board. Commissioner Andrews stated that drainage problems may come from rain water and run-off in areas where there is no longer grass area but concrete patio and a pool that takes up most of the rear yard up to the lot line that backs up to the pond. She noted that a drainage and grading plan needs to be provided for review and possibly to ask for input from the LaGrange Highlands Sanitary District that serves the Ashbrook Development for water/sewer services.

Trustee Coleman stated that storm water does not flow directly into the sanitary district sewer and the lines are totally separate. She noted that storm water is collected in the ponds and an engineering review would determine if there are any issues that need to be addressed.

Chairman Schermerhorn stated that the Village engineer will review the plan for grading and drainage and provide a report. He noted that if there are any engineering issues to be addressed those items will be provided to the property owner and his consultants to address. Commissioner Ingram asked what the zoning members will review on this zoning matter since a recommendation was already provided to the Board. She added that it was determined that a pool is allowed in the Ashbrook Estate Homes covenants and that the plans would be reviewed for code compliance with any items to be addressed before a permit could be issued for the project to start. Chairman Schermerhorn stated that this is the first time a zoning matter has been remanded back to the Commission for further review after a recommendation was provided to the Board. He noted that the Commission will review any new information and provide another report to the Board after the process has been completed.

Commissioner O'Malley stated that final revised plans need to be received for review and distributed to the Commission before any further recommendations can be provided to the Board.

Chairman Schermerhorn stated that the Village posted an agenda listing a continuation of a public hearing regarding an amendment to the Ashbrook Development Subdivision Planned Unit Development for the property located at 11145 Ashbrook Lane with regard to a proposed in-ground swimming pool, safety fence and landscape enhancements. Chairman Schermerhorn stated that the Commission does not have enough information before them this evening to make a decision or further recommendation to the Village Board regarding this zoning matter. He noted that if a retaining wall is a part of the current plan, it must be reflected in detail on the drawings showing the location. Chairman Schermerhorn stated that a retaining wall structure would be a special use as defined in the zoning ordinance. Chairman Schermerhorn presented the following two options to Mr. Jim Nix for consideration: (1) to entertain a motion for the Commission to continue this matter to the next zoning meeting to allow time for final plans to be prepared and submitted for review; (2) for the Commission to consider and vote on the items discussed by the Commission this evening as presented. Mr. Nix stated that a public hearing was held two months ago regarding the pool project, there were many suggested changes along the way that were incorporated in the plans and meetings were held with Frank Alonzo and Tim Halik, the Village's plan review consultant. He mentioned that the pool edge wall would meet the code and it was not considered a separate structure as designed according to the Village's plan review consultant. Mr. Nix stated that each time the matter is continued and changes are suggested to the plans, he has to pay his consultants.

Chairman Schermerhorn mentioned that the report provided by Tim Halik, the Village's plan review consultant, on June 2, 2009 stated the following: *"Tim raised the issue of a perimeter retaining wall. He stated that regardless of whether the required vertical wall is constructed of modular block or it is a reinforced poured-in-place concrete wall, it constitutes a retaining wall in the context of the Village zoning ordinance. Therefore, the retaining wall will need to become part of the zoning relief that is required to construct the pool"*. Chairman Schermerhorn stated that based on the information presented to the Commission at the last hearing, a recommendation was presented to the Village Board with a condition that a retaining wall was not proposed. Steve Hopkins, from Barrington Pools, stated that two options were presented in the first hearing process. One plan reflected a separate retaining wall structure and one plan showed a thicker pool edge with a poured concrete wall at the pool edge within the same setback area of the pool. Chairman Schermerhorn stated that the zoning ordinance specifically defines structures within setback areas and also the procedures to allow a special use. Chairman Schermerhorn stated that if a pool contractor is designing a pool to include a retaining wall structure as defined by the zoning ordinance, the Commission is not conducting the meeting this evening to approve a retaining wall. He stated that if the request before the Commission is to accept a pool design plan with a retaining wall, there is not enough information to reach a conclusion to provide a recommendation.

Chairman Schermerhorn stated that the Commission can certainly continue the matter to the next meeting to provide the property owner and his pool contractor time to provide additional details for review. He noted that if a retaining wall is part of the plan, it must be shown to scale on the plan including the location.

Mr. Nix stated that he will work with his contractor to finalize plans to incorporate the items discussed and asked the Commission to continue the public hearing to the next meeting.

Jim Stortzum, counsel for the Ashbrook Townhome Association, asked that plans be submitted to the Village for review prior to the public hearing to allow enough time for the plans to be reviewed and for comments to be provided. Mr. Stortzum also requested a copy of the plans that are submitted to the Village prior to the hearing date to allow time for review.

Commissioner Costelloe moved, seconded by Commissioner Andrews, to continue the public hearing regarding Zoning Petition #172 to the Tuesday, July 7, 2009 meeting regarding an amendment to the Ashbrook Development Planned Unit Development for the property located at 11145 Ashbrook Lane. Motion carried by unanimous roll call vote (5/0/1).

Aye: Commissioners: Andrews, Costelloe, Ingram, Lopez, O'Malley

Nay: None

Absent: Yelnick

**REVIEW AND APPROVAL OF PLANNING AND ZONING
COMMISSION MEETING MINUTES
(DISCUSSION AND A POSSIBLE VOTE MAY TAKE PLACE)**

★ *Minutes of the Planning and Zoning Commission Meeting held
May 5, 2009*

Upon review of the minutes presented from the meeting held on Tuesday, May, 2009, Commissioner Andrews moved, seconded by Commissioner Costelloe, to approve the May 5, 2009, meeting minutes, as amended. Carried by unanimous voice vote (5/0/1).

VI. ADJOURNMENT

There being no further business to discuss before the Commission, Chairman Schermerhorn entertained a motion to adjourn the meeting. Commissioner Andrews moved, seconded by Commissioner O'Malley, to adjourn the meeting at 8:35 p.m. Carried by unanimous voice vote (5/0/1).

Respectfully Submitted,
Kathy Leach, Recording Secretary
Planning and Zoning Commission